THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT APPEAL NOs.1138 of 1999 & 723 of 2000

AND

W.P.NO.2726 OF 1994 & 8575 OF 1997

W.A.No.1138 of 1999

The Regional Manager,APSRTC and another

Appellants

And

G.Ashok and others .. Respondents

W.A.No.723 of 2000

Between:

The APSRTC and others .. Appellants

W.P.No.2726 of 1994

Between:

APSRTC National Mazdoor Union and another .. Petitioners

And

APSRTC and others

.. Respondents

W.P.No.8575 of 1997

Between:

C.Venkatachalapathi and others

… Petitioners

and

APSRTC and others

… Respondents

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

-

WRIT APPEAL NOs.1138 of 1999 & 723 of 2000

AND

W.P.NO.2726 OF 1994 & 8575 OF 1997

COMMON JUDGMENT: (Per Hon'ble Sri Justice B.Prakash Rao)

Heard both sides.

In all these matters, the short question involved is as to whether the employees/conductors are entitled for the benefit of Graduate increments?

This matter was referred to by the learned single Judge on the question as to whether the erstwhile conductors, on their subsequent appointment by direct recruitment as Junior Assistants, are entitled for the benefit of graduate increments to which conductors in the APSRTC were entitled.

Learned counsel appearing on behalf of the employees/ conductors sought to raise distinctive features. However, during the course of arguments, it is pointed out that the scheme as such was initially introduced in the year 1972 and later it was withdrawn in the year 1992. Challenging the same and claiming virtually similar benefit, the employees/conductors have approached this Court. However, a Division Bench of this Court has allowed the writ petition as per order dated 7.8.2000 in W.A.No.202 of 1988 permitting the employees to avail the remedy by approaching the Labour Court. In similar circumstances, this Court remanded the matter to the Labour Court in W.P.No.4096 of 1985 following the earlier judgment in WP 6564 of 1988. Later, another Division Bench of this Court as per order dated 20.12.2002 in W.P.No.15066 of 1991 and batch, held that:

> "We are conscious that one of the Writ petitions has been in this Court for more than 10 years but all the same a coordinate Bench of this Court has referred the controversy to the Labour Court. Therefore, in order to avoid any conflicting judgments and also to avoid deciding a controversy which has already been referred by another Division Bench to the Labour Court, we do not intend to decide the controversy at this stage, rather we are compelled to adopt the course adopted by another Division Bench and refer the matter to the Labour Court.
>
> Status-quo shall be maintained and the petitioners shall have 60 days time from today to approach the Labour Court".

Learned counsel appearing on behalf of the respondents sought to raise

several other submissions including Rule 7 (A)(e) of the APSRTC Employees (Service) Regulations, 1964 apart from other questions.

However, in view of the fact that the very entitlement as such is a *lis subjudice* before the Labour Court and the same being comprehensively to be considered, it would be in the interest of justice that the employees herein can as well approach the Labour Court either by impleading themselves or by raising independent dispute. To avoid any further delays and with a view to put an end to the short question involved, learned Standing Counsel has no objection to such a course. It shall be open for the employees to file applications to implead themselves. It is also made clear that these employees are at liberty to raise all such other questions which are directly or indirectly involved in the reference made before the Labour Court in I.D.No.38 of 2002 and all such aspects though independently arise out of the common question as to the entitlement, necessarily have to be considered comprehensively and disposed of on merits in accordance with law after giving sufficient opportunity to these employees also. The employees/ Conductors are permitted to approach the Labour Court within a period of eight weeks from the date of receipt of a copy of this order.

Subject to the above W.A.Nos.1138 of 1999 and 723 of 2000 are allowed and W.P.No.8575 of 1999 and 2726 of 1994 are dismissed. No order as to costs.

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B.PRAKASH RAO, J

01.3.2006

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D.APPA RAO, J

Note: Issue C.C in

one week

(B/o)

RAR

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

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WRIT APPEAL NO.2397 of 2005

(Judgment of the Bench delivered

by Hon'ble Sri Justice B.Prakash Rao)

DATED: 01.03.2006

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